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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,532	12/12/2003	Reiner Sailer	YOR920030607US1 (163-26)	9714
24336 7590 11/10/2009 TUTUNJIAN + BITETTO, P.C. 20 CROSSWAYS PARK NORTH SUITE 210 WOODBURY, NY 11797			EXAMINER ENGLAND, DAVID E	
			ART UNIT 2443	PAPER NUMBER
			MAIL DATE 11/10/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/734,532	Applicant(s) SAILER ET AL.	
	Examiner DAVID E. ENGLAND	Art Unit 2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 12 is presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deverill, Snapp, Ploetz and Baxter et al. 20020124011, hereinafter Baxter.

4. Referencing claim 12, as closely interpreted by the Examiner, Deverill teaches a method for providing attestation in a server execution environment, comprising the steps of:

5. measuring one or more parts of a server execution environment such that measurements are taken which result in a unique fingerprint for each respective selected part, (e.g., col. 7, lines 5 – 17 & lines 44 – col. 8, line 31 et seq.);

6. wherein the step of measuring further comprises the step of:

7. measuring code as the code is being loaded into memory and before execution of the code if the code was not measured before or if a measurement entry of the code is marked to have possibly changed since a last measurement here loading code into a system is performed only if a measurement value of code to be loaded is a member of a given set of measurement values, (e.g., col. 7, lines 5 – 17 & lines 44 – col. 8, line 31 et seq.); and

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8. aggregating the unique fingerprints by an aggregation function to create an aggregated value, (e.g., col. 7, lines 5 – 17 & lines 44 – col. 8, line 31 et seq.); and
9. sending a measurement parameter which includes at least one of the unique fingerprints, and the aggregated value over a network interface to indicate a system status or state, (e.g., col. 7, lines 5 – 17 & lines 44 – col. 8, line 31 et seq.) but does not specifically teach if an earlier measurement exists for the code and a new measurement is different, marking the earlier measurement as changed and adding the new measurement to a list,
10. if an earlier measurement exists and a new measurement is the same as the earlier measurement, ignoring the new measurement and marking the earlier measurement entry as unchanged to avoid unnecessary measurements of the same code and to prevent multiple measurements for entries of the same code from being stored, wherein the measurements are stored in an order- preserving manner in a single list;
11. Snapp teaches if an earlier measurement exists and a new measurement is the same as the earlier measurement, ignoring the new measurement and marking the earlier measurement entry as unchanged to avoid unnecessary measurements of the same code and to prevent multiple measurements for entries of the same code from being stored, (e.g., col. 2, line 27 – col. 3, line 17 et seq.) It would have been obvious to one skilled in the art to only save information that has changed since this would free up processing time and prevent duplication of data that is unneeded.
12. Ploetz teaches if an earlier measurement exists for the code and a new measurement is different, marking the earlier measurement as changed and adding the new measurement to a list, (col. 7, line 65-col. 8, line 12, col. 11, line 51 - col. 12, line 55, setting as old is same as marking

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as changed.). It would have been obvious to one skilled in the art to add new values to a measurement database so one can monitor abnormalities or changes in the system to determine if anything is wrong in the system.

13. Baxter more specifically teaches wherein the measurements are stored in an order-preserving manner in a single list, (e.g., ¶ 0014). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Baxter with Deverill, Snapp and Ploetz because storing all information in one area allows users to only have to access on list of information in one location instead of multiple lists in multiple locations and therefore making for a faster retrieve time.

Response to Arguments

14. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. ENGLAND whose telephone number is (571)272-3912. The examiner can normally be reached on Mon-Thur, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. England
Primary Examiner
Art Unit 2443

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